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REMARKS

This response is a full and complete response to the non-final Office Action mailed July 12, 2005. In the Office Action, the Examiner notes that claims 1-22 are pending of which claims 9-22 are withdrawn from consideration, claims 1, 7 and 8 are rejected and claims 2-6 are objected to. By this response, Applicants have amended claims 1-3.

In view of both the amendments presented above and the following discussion, Applicants submit that none of the claims now pending in the application are anticipated under the provisions of 35 U.S.C. §102. Therefore, Applicants believe that this application is now in condition for allowance.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendment.

ELECTION/RESTRICTION

The Examiner has acknowledged Applicants' election with traverse of Species 1 in the reply filed on April 11, 2005 and made the restriction requirement final. In response, Claims 9-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no (allowable) generic or linking claim. Applicant timely traversed the restriction (election) requirement in the response dated April 11, 2005.

The Applicants would like the Examiner to reconsider the restriction requirement as all the claims are directed to the same invention. Species 1, 2 and 3 all claim an invention directed to a node in a network including transceivers using common control and backup channel, either along or in combination with fiber loopback protection or wavelength loopback protection. Systems constructed

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according to the invention require only a single transceiver per wavelength at each node that accesses that wavelength.

REJECTIONS

35 U.S.C. §102

Claims 1, 7 and 8

The Examiner has rejected claims 1-3, 5, and 6 under 35 U.S.C. §102(b) as being anticipated by Sutter et al. U.S. Patent No. 5,760,934 (hereinafter "Sutter"). Applicants respectfully traverse the rejection.

Applicants' independent claim 1 recites:

In combination, a closed loop optical fiber for carrying information modulated on at least two optical carriers, a first one of the carriers having a first wavelength and a second one of the carriers having a second wavelength, at least two nodes at a first one of which first information modulated on the first carrier and second information modulated on the second carrier is to be recovered and transmitted, the first node comprising a first demultiplexer for demultiplexing the first carrier from the fiber, a second demultiplexer for demultiplexing the second carrier from the fiber, a first multiplexer for multiplexing the first carrier on the fiber, a second multiplexer for multiplexing the second carrier on the fiber, and apparatus for receiving and transmitting first and second information, the apparatus for receiving and transmitting first and second information comprising a first receiver for demodulating first information and a first transmitter for modulating first information on the first carrier before the first carrier is placed on the fiber by the first multiplexer, a second receiver for demodulating second information and a second transmitter for modulating second information on the second carrier before the second carrier is placed on the fiber by the second multiplexer, and first and second switches, wherein when the first carrier is not capable of transmitting first information over the fiber, the first information is modulated on the second carrier for transmission over the fiber. (emphasis added).

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d

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1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). The Sutter reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

The Sutter reference discloses a ring network for transmitting wavelength-multiplexed information. A node in the network includes an ADM having east interface and west interface with receivers and transmitters. (See, col. 6, lines 24-46). The Sutter reference fails to teach or suggest first and second switches, wherein when the first carrier is not capable of transmitting first information over the fiber, the first information is modulated on the second carrier for transmission over the fiber.

As such, Applicants submit that independent claim 1 is not anticipated and fully satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder. Furthermore, claims 7 and 8 depend directly or indirectly from independent claim 1 and recite additional features thereof. As such and at least for the same reasons as discussed above, Applicants submit that these dependent claims also are not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

ALLOWABLE SUBJECT MATTER

The Examiner has objected to claims 2-6 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants' respectfully traverse the objection. Applicants thank the Examiner for indicating allowable subject matter but believe independent claim 1 from which dependent claims 2-6 depend is allowable over the prior art of record for the reasons set forth below. It therefore follows that Applicants believe that dependent claims 2-6 are also allowable. Therefore, Applicants respectfully request that the foregoing objection to claims 2-6 be withdrawn.

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SECONDARY REFERENCES

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

CONCLUSION

Thus, Applicants submit that none of the claims, presently in the application, are anticipated under the provisions of 35 U.S.C. §102. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 9/30/05

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